

21 C.J.S. Courts § 145

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Courts

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IV. Terms and Sessions

B. Terms

2. Extension or Adjournment of Terms

§ 145. Continuance of proceedings beyond term

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Business that remains unfinished at the end of a term goes over to the next term; a court may act outside of the regular term only if granted authority by statute, and any act undertaken that is not authorized by statute is a nullity.

Ordinarily, business that is unfinished at the end of a term goes over to the next term.¹ In general, courts have inherent authority to finish at a succeeding term business that was commenced during a previous term.²

A district court of appeal has no authority to withdraw its mandate or rehear a case after its term of court has ended.³ Outside of the regular term, a trial court may be restricted to acting only when granted authority by statute, in which case any act undertaken that is not authorized by statute is a nullity.⁴ Thus, a trial court involved in resolving a divorce case may exercise the discretion it has over its judgments and orders during the term at which they are rendered.⁵ The question of whether a settlement agreement made between spouses in a divorce case should be approved and incorporated into the parties' decree of divorce remains within the trial judge's discretion, which can only be exercised at the time the divorce decree is entered or during the term of court at which the decree incorporating the agreement was rendered.⁶ However, the rule limiting the power of courts over their judgments to the term at which they were rendered applies only to final judgments.⁷ Accordingly, the fact that a trial court's order regarding attorney's fees following remittitur from the appellate court was entered in a later term of court does not preclude the trial court from entering an attorney's fees order in a negligence action as no final judgment has been entered on the issue of attorney's fees in remittitur.⁸

In some instances—under statute or otherwise—a court is deemed to retain jurisdiction and to have the authority to continue in session, if need be, beyond the term for the purpose of completing and disposing of business that has been commenced and as to which the action of the court or judge, as the case may be, has been invoked during the term.⁹

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Footnotes

- 1 Kan.—*State v. Crilly*, 69 Kan. 802, 77 P. 701 (1904).
- 2 U.S.—*Pratt v. U.S.*, 102 F.2d 275 (App. D.C. 1939).
- 3 Fla.—*Zeno v. State*, 910 So. 2d 394 (Fla. 2d DCA 2005) (disapproved of on other grounds by, *Garzon v. State*, 980 So. 2d 1038 (Fla. 2008)).
- 4 Miss.—*Leverette v. State*, 812 So. 2d 241 (Miss. Ct. App. 2002) (circuit court).
- 5 Ga.—*Guthrie v. Guthrie*, 277 Ga. 700, 594 S.E.2d 356 (2004).
- 6 Ga.—*Guthrie v. Guthrie*, 277 Ga. 700, 594 S.E.2d 356 (2004).
- 7 Ga.—*CSX Transp., Inc. v. Deen*, 278 Ga. App. 845, 630 S.E.2d 119 (2006).
- 8 Ga.—*CSX Transp., Inc. v. Deen*, 278 Ga. App. 845, 630 S.E.2d 119 (2006) (superior court).
- 9 Pa.—*Shenker v. Harr*, 332 Pa. 382, 2 A.2d 298 (1938).

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